United Nations A/HRC/RES/38/11

General Assembly

Distr.: General
16 July 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 3

Resolution adopted by the Human Rights Council on 6 July 2018

38/11. The promotion and protection of human rights in the context of peaceful protests

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the Universal Declaration of Human Rights, and recalling relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and other relevant regional human rights instruments,

Recalling the Vienna Declaration and Programme of Action,

Recalling also the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Reaffirming that, consistent with the Universal Declaration of Human Rights, States Members of the United Nations have pledged to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms for all without distinction such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling its decision 17/120 of 17 June 2011 and its resolutions 19/35 of 23 March 2012, 22/10 of 21 March 2013, 25/38 of 28 March 2014 and 31/37 of 24 March 2016 on the promotion and protection of human rights in the context of peaceful protests, and other relevant resolutions of the Human Rights Council,

Recognizing that, pursuant to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the rights to freedom of peaceful assembly, of expression and of association are human rights guaranteed to all, while their exercise may be subject to certain restrictions, in accordance with States' obligations under applicable international human rights instruments,

Recognizing also that any such restrictions must be based in law, and be necessary and proportionate to further a legitimate aim, in accordance with the State's obligations under applicable international human rights instruments, and that, if imposed,

administrative or judicial review that is prompt, competent, independent and impartial should be available,

Recalling that States have the primary responsibility for the promotion and protection of human rights and fundamental freedoms, including in the context of assemblies such as peaceful protests, and to ensure that national legislation, policies and practices, as the national framework for the exercise of the rights to freedom of peaceful assembly, of expression and of association, are in compliance with international human rights law,

Noting that the proper management of assemblies involves and can have an impact on respect for human rights before, during and after an assembly, and aims to contribute to its peaceful conduct and to prevent injuries to and loss of life of protesters, those monitoring such protests, bystanders and officials exercising law enforcement duties,

Acknowledging that peaceful protests may occur in all societies, including protests that are spontaneous, simultaneous, unauthorized or restricted,

Acknowledging also that participation in peaceful protests can be an important form of exercising the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs,

Recognizing that peaceful protests can make a positive contribution to the development, strengthening and effectiveness of democratic systems and to democratic processes, including elections and referendums,

Recognizing also that peaceful protests have historically played a constructive social and political role in the development of more just and accountable societies, and that such protests can continue to make a positive contribution to human development,

Acknowledging that peaceful protests can contribute to the full enjoyment of civil, political, economic, social and cultural rights,

Reaffirming that everyone has the right to life, liberty and security of person,

Reaffirming also that participation in public and peaceful protests should be entirely voluntary and uncoerced,

Stressing therefore that everyone, including persons espousing minority or dissenting views or beliefs, must be able to express their grievances or aspirations in a peaceful manner, including through public protests, without fear of reprisal or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested and detained, tortured, killed or subjected to enforced disappearance,

Deeply concerned about extrajudicial, summary or arbitrary executions, and torture and other cruel, inhuman or degrading treatment or punishment of persons exercising their rights to freedom of peaceful assembly, of expression and of association in all regions of the world,

Concerned about the emerging trend of disinformation and of undue restrictions preventing Internet users from having access to or disseminating information at key political moments, with an impact on the ability to organize and conduct assemblies,

Noting that the possibility of using communications technology securely and privately, in accordance with international human rights law, is important for the organization and conduct of assemblies,

Noting also that, although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, may apply to analogous interactions taking place online,

Recalling the rights to freedom of peaceful assembly, of expression and of association, which encompass organizing, participating, observing, monitoring and recording assemblies,

Expressing its concern at the criminalization, in all parts of the world, of individuals and groups solely for having organized, taken part in or observed, monitored or recorded peaceful protests,

Stressing that peaceful protests should not be viewed as a threat, and therefore encouraging all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes,

Recalling that isolated acts of violence committed by others in the course of a protest do not deprive peaceful individuals of their rights to freedom of peaceful assembly, of expression and of association,

Bearing in mind that assemblies can be facilitated on the basis of communication and collaboration among organizers, protesters, local authorities and officials exercising law enforcement duties,

Recognizing that national human rights institutions and representatives of civil society, including non-governmental organizations, can play a useful role in facilitating continued dialogue between individuals taking part in peaceful protests and the relevant authorities,

Stressing the need to ensure full accountability for human rights violations or abuses in the context of peaceful protests,

Recalling the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,

Encouraging all States to make appropriate use of the Resource book on the use of force and firearms in law enforcement published by the Office of the United Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime, and the updated training package of the Office of the High Commissioner on human rights law and law enforcement,

Recalling the importance of adequate training for officials exercising law enforcement duties assigned to the management of assemblies, and of refraining, to the extent feasible, from assigning military personnel to perform such duties,

1. *Recalls* that States have the responsibility, including in the context of peaceful protests, to promote and protect human rights and to prevent human rights violations and abuses, including extrajudicial, summary or arbitrary executions, arbitrary arrest and detention, enforced disappearances and torture and other cruel, inhuman or degrading treatment or punishment, and calls upon States to avoid the abuse of criminal and civil proceedings, or threats of such acts at all times;

2. *Calls upon* States to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, including by ensuring that domestic legislation and procedures relating to the rights to freedom of peaceful assembly, of expression and of association are in conformity with their international human rights obligations and commitments, to clearly and explicitly establish a presumption in favour of the exercise of these rights, and that they are effectively implemented;

3. *Encourages* all States to give due consideration to the compilation of practical recommendations for the proper management of assemblies based on best practices and lessons learned,[1] which provides a useful tool for States on how to fulfil their obligations and commitments, including on how to operationalize them in their domestic laws, procedures and practices, and to promote and protect human rights in the context of assemblies, including peaceful protests;

4. *Calls upon* States to facilitate peaceful protests by providing protesters, to the extent possible, with access to public space within sight and sound of their intended target

[1] See A/HRC/31/66.

audience, and by protecting them, without discrimination, where necessary, against any form of threat or harassment, and underlines the role of local authorities in this regard;

5. *Underlines* the important role that communication between organizers, protestors, local authorities and officials exercising law enforcement duties can play in the proper management of assemblies, such as peaceful protests, and calls upon States to establish such appropriate channels;

6. *Urges* States to pay particular attention to the safety and protection of women and women human rights defenders from acts of intimidation and harassment, as well as gender-based violence, including sexual assault, in the context of peaceful protests;

7. *Reaffirms* that States must take all appropriate measures for the safety and protection of children, including while they exercise their rights to freedom of peaceful assembly, of expression and of association, including in the context of peaceful protests;

8. *Calls upon* all States to pay particular attention to the safety of journalists and media workers observing, monitoring and recording peaceful protests, taking into account their specific role, exposure and vulnerability;

9. *Also calls* upon all States to refrain from and cease measures, when in violation of international human rights law, seeking to block Internet users from gaining access to or disseminating information online;

10. *Urges* all States to avoid using force during peaceful protests, to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force, and also to ensure that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment;

11. *Calls upon* States, as a matter of priority, to ensure that their domestic legislation and procedures are consistent with their international obligations and commitments in relation to the use of force in the context of law enforcement and are effectively implemented by officials exercising law enforcement duties, in particular, applicable principles of law enforcement, such as necessity and proportionality, bearing in mind that lethal force may only be used as a last resort to protect against an imminent threat to life and that it may not be used merely to disperse a gathering;

12. *Affirms* that nothing can ever justify the indiscriminate use of lethal force against a crowd, which is unlawful under international human rights law;

13. *Calls upon* States to investigate any death or significant injury, including those that lead to disability, incurred during protests, including those resulting from the discharge of firearms or the use of less-lethal weapons by officials exercising law enforcement duties or by private personnel acting on behalf of the State;

14. *Also calls upon* States to ensure adequate training of officials exercising law enforcement duties and, where applicable, to promote adequate training for private personnel acting on behalf of the State, including in international human rights law and, where appropriate, international humanitarian law, and in this regard urges States to include in such training the application of de-escalation strategies;

15. *Encourages* States to make appropriate protective equipment and less-lethal weapons available to their officials exercising law enforcement duties in order to decrease their need to use weapons of any kind, while pursuing efforts to regulate and establish protocols for the training and use of less-lethal weapons, bearing in mind that even less-lethal weapons can result in a risk to life;

16. *Underlines* the importance of thorough and independent testing of less-lethal weapons prior to procurement and deployment to establish their lethality and the extent of likely injury, and of monitoring appropriate training and use of such weapons;

17. *Stresses* the importance of international cooperation in support of national efforts for the promotion and protection of human rights and fundamental freedoms in the context of assemblies, including peaceful protests, in order to raise the capacities of law enforcement agencies to deal with such assemblies in a manner that conforms to international human rights law and standards;

18. *Underlines* the necessity to address the management of assemblies, including peaceful protests, so as to contribute to their peaceful conduct, and to prevent injuries, including those that lead to disability, and loss of life of protestors, those observing, monitoring and recording such assemblies, bystanders, and officials exercising law enforcement duties, as well as any human rights violation or abuse, to ensure accountability for such violations and abuses and to provide victims with access to a remedy and redress;

19. *Recognizes* the importance of documenting human rights violations and abuses committed in the context of peaceful protests, and the role that can be played by national human rights institutions, civil society, including non-governmental organizations, journalists and other media workers, Internet users and human rights defenders, in this regard;

20. *Urges* States to ensure accountability for human rights violations and abuses through judicial or other national mechanisms, based on law and in conformity with their international human rights obligations and commitments, and to provide all victims with access to a remedy and redress, including in the context of peaceful protests;

21. *Requests* the United Nations High Commissioner for Human Rights to prepare a thematic report on new technologies, including information and communications technology, and their impact on the promotion and protection of human rights in the context of assemblies, including peaceful protests, and to submit it to the Human Rights Council prior to its forty-fourth session;

22. *Also requests* the High Commissioner, in preparing the thematic report, to draw from the experience of treaty bodies and to seek the views of States and relevant partners, such as United Nations agencies, regional organizations, national human rights institutions, civil society organizations and relevant special procedure mandate holders;

23. *Decides* to continue its consideration of this topic and next steps at its forty-fourth session under agenda item 3.

38th meeting
6 July 2018

[Adopted without a vote.]